



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

SEP 28 2004

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark Erler, President
Erler Industries, Inc.
P.O. Box 219
North Vernon, Indiana 47265

Re: In the Matter of Erler Industries, Inc, North Vernon, Indiana

Dear Mr. Erler:

Enclosed is a fully executed original of an Administrative Consent Order.

If you have any technical questions about this Administrative Consent Order, please contact Mr. Kushal Som, of my staff, at (312) 353-5792. Any legal questions should be directed to Steven Kaiser at (312) 353-3804. Thank you for your cooperation.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Brent Marable".

^{for}
Brent Marable, Chief
Air Enforcement and Compliance Assurance section (IL/IN)

Enclosure

cc: David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management

Andy Bowman
Bingham McHale LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Erler Industries, Inc.)	Administrative Consent Order
North Vernon, Indiana)	
)	EPA-05-04-113(a)-08-IN
Proceeding Under)	
Section 113(a)(1)(A))	
of the Clean Air Act,)	
42 U.S.C. § 7413(a)(1)(A))	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Erler Industries, Inc. (Erler Industries) under Section 113(a)(1)(A) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1)(A).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.

3. On February 10, 1986, U.S. EPA approved the general reduction requirements for new facilities (as of January 1, 1980) that emit, or have the potential to emit, 25 tons per year of volatile organic compounds, as part of the federally enforceable state implementation plan (SIP) for Indiana. 51 Fed. Reg. 4912 (February 10, 1986). These federally approved rules include 326 IAC 8-1-6, General Reduction Requirements for New Facilities.

These rules became effective on February 10, 1986.

4. Under Section 113(a)(1)(A) of the Act, 42 U.S.C. § 7413(a)(1)(A), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

5. Erler Industries owns and operates a coating facility, which includes operations at 418 Stockwell Street, 71 Hayden Pike and 125 West Hayden Pike, North Vernon, Indiana 47265, (the Facility). The Facility is comprised of five plants. Plant 1, Line 1 started operations in 1988 and originally consisted of three manual spray booths; in 2000, one manual booth was replaced by a robotic paint booth and also one additional robotic paint booth was added. Plant 1, Line 2 began operations in 1989 and includes two manual booths and two ovens. Plant 2, Lines A and B began operations in 1992 and originally included six manual booths and two ovens; in 1996, one of the manual booths was removed and Erler installed a robotic booth. Plant 3, Line 3 began operations in 1999 and includes three robotic paint booths. Plant 4, Line 4 began operations in 2002 and includes three robotic paint booths. Plant 5 began operations in 2003 and includes three robotic paint booths. Operations at the Facility are regulated by a series of permits issued by the Indiana

Department of Environmental Management and include limits on volatile organic compound emissions.

6. On June 17, 2004, U.S. EPA issued a notice of violation alleging that Erler Industries violated the Indiana State Implementation Plan (SIP) at the Facility by failing to comply with 326 IAC 8-1-6, failing to properly monitor, record and report VOC emissions, and exceeding existing permit limits for VOC emissions.

7. At all relevant times, Erler's emissions of volatile organic compounds from Plant 1, Line 1 were limited to less than 25 tons per twelve-consecutive month period with compliance determined at the end of each month.

8. Erler exceeded its emission limit for Line 1 between June 1999 and August 2000, and April 2001 through at least March 2004.

9. At all relevant times, Erler's emissions of volatile organic compounds from Plant 3 were limited to less than 25 tons per twelve-consecutive month period with compliance determined at the end of each month.

10. Erler exceeded its emission limit for Plant 3 between September 2000 and at least March 2004.

11. At all relevant times, Erler's emissions of volatile organic compounds from Plant 4 were limited to less than 25 tons per twelve-consecutive month period with compliance determined at the end of each month.

12. Erler exceeded its emission limit for Plant 4 between December 2002 and at least March 2004.

13. At all relevant times, Erler's emissions of volatile organic compounds from Plant 5 were limited to less than 25 tons per twelve-consecutive month period with compliance determined at the end of each month.

14. Erler exceeded its emission limit for Plant 5 between October 2003 and at least March 2004.

Compliance Program

15. At all times, Erler Industries must comply with the following emission limits for volatile organic compounds:

- a. Plant 1/Line 1 (EU1, EU2, EU17, and EU18): 2.08 tons per month;
- b. Plant 1/Line 2 (EU4 and EU5): 2.08 ton per month;
- c. Plant 2/Line A (EU6, EU7, and EU8) and Line B (EU9, EU10, EU11 and EU12): less than 15 tons per month;
- d. Plant 3/Line 3 (EU13, EU14, EU15): 2.08 tons per month;
- e. Plant 4/Line 4 (EU19, EU20, EU21): 2.08 tons per month; and,
- f. Plant 5 (EU22, EU23, and EU24): 2.08 tons per month.

16. Erler's entry into and performance pursuant to this Order does not excuse any past, present, or future violations of emissions limits at the Facility. Nothing in this Order limits U.S. EPA's authority to seek any additional relief for Erler Industries' violations of the Indiana SIP, including imposition of civil penalties under Section 113 of the Act, 42 U.S.C. § 7413.

17. No later than 60 days from the effective date of this Order, Erler Industries shall complete installation of three regenerative thermal oxidizers (RTO's) for Plants 3, 4 and 5.

18. In addition to the limitations set forth in paragraph 15. above, once Erler has installed and begun operation of all three of the RTO's, Erler Industries shall comply with the following limitations at all times when Plant 3, Plant 4 or Plant 5 is operating:

- a. Maintain ninety-five (95) percent destruction of the input volatile organic compounds (VOC) for Plant 3;
- b. Maintain ninety-five (95) percent destruction of the input VOC for Plant 4;
- c. Maintain ninety-five (95) percent destruction of the input VOC for Plant 5.

19. Beginning on the effective date of this Order, and ceasing when Erler demonstrates that it has met the requirements of paragraph 17. and 18. Erler Industries must submit certified reports to the U.S. EPA on a monthly basis. The certified reports must be signed by an officer of Erler Industries. The officer's signature must be preceded by the following language:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Erler Industries must send all required information and reports to:

Attn: Compliance Tracker, AE-17J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

These monthly reports shall be submitted to the U.S. EPA by the 30th day following the end of each month and must include the following information:

- a. Name of each coating, thinner, and cleaning solvent used at each Plant (Plants 1, 2, 3, 4 or 5);
- b. Volatile organic compound content for each coating, thinner, and cleaning solvent used (by weight);
- c. Amount of each coating, thinner, and cleanup solvent used at each line (in gallons);
- d. Content (by weight) of each Hazardous Air Pollutant (HAP) for each coating, thinner, and cleanup solvent used at each Plant;
- e. VOC input emissions for each line;
- f. Individual HAP input emissions for each line;
- g. Total HAP input emissions for each line;
- h. VOC input emissions from coatings, thinners, and cleaning solvents used on metal parts;
- i. Amount of coating, thinner, and cleanup solvent used on metal parts;
- j. Hours of operation of each line;
- k. Outage periods for each line;
- l. Hours of operation of each RTO;
- m. Outage periods for each RTO;

- n. Destruction efficiency for each RTO as specified by manufacturer and as demonstrated pursuant to paragraph 21. of this Order;
- o. Results, including supporting documentation, of all destruction efficiency tests conducted on RTO's at the Facility; and,
- p. Minimum operating temperatures for each RTO.

20. Erler Industries shall submit emissions testing protocols to U.S. EPA and IDEM for review and approval no later than 120 days after start-up of all three RTO's.

21. By no later than 180 days after start-up of all three RTO's, Erler Industries shall demonstrate that it has met the requirements of paragraph 18. through emission testing conducted in accordance with an approved U.S. EPA and IDEM test protocol. U.S. EPA will not object in the event IDEM elects, in its sole and unbridled discretion, to use this demonstration by Erler Industries to satisfy the initial testing requirements contained in the modification of the Part 70 Operating Permit.

22. Erler Industries shall report to U.S. EPA and IDEM any deviation from the requirements of this Order within seventy-two (72) hours of the occurrence of the deviation by telephoning at (312) 353-5792, Kushal Som, Office of Enforcement and Compliance, Air Enforcement, Compliance and Assurance Branch, United States Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, Illinois 60604 and David McIver, Office of Enforcement, Air Section, Indiana Department of Environmental Management, 100 North Senate Avenue, Room 1001, P.O. Box 6015, Indianapolis, IN 46206-6015 at (317) 232-8456.

General Provisions

23. This Order does not affect Erler Industries' responsibility to comply with other local, state, and federal laws and regulations.

24. This Order does not restrict U.S. EPA's authority to enforce the Indiana SIP, or any section of the Act.

25. Failure to comply with this Order may subject Erler Industries to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

26. The terms of this Order are binding on Erler Industries, its assignees and successors. Erler Industries shall give notice of this Order to any successors-in-interest, prior to transferring ownership. Erler Industries must also provide to U.S. EPA proof that it has provided the notice required under this paragraph. Erler Industries shall send such proof to U.S. EPA at the address set forth in paragraph 19., above.

27. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

28. U.S. EPA may use any information submitted under this Order in an administrative, civil, or criminal action.

29. Erler Industries agrees that U.S. EPA has the authority to enter into this Order and agrees to be bound by the terms of this Order.

30. If an event occurs which causes or may cause a delay in Erler Industries completing the obligations described in paragraphs 17 or 18 of this Order:

- a. Erler Industries must notify U.S. EPA within five (5) days after learning of circumstances which caused or are expected to cause a delay in completing the obligations of paragraphs 17 or 18. The notice must describe the anticipated length of the delay, and a schedule to carry out those actions. Any such notice must be sent to the attention of Kushal Som electronically, at Som.Kushal@epa.gov; and by regular mail, at Air Enforcement and Compliance Assurance Branch (AE-17J), U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- b. Erler Industries has the burden of proving that circumstances beyond its control are delaying, or expected to cause a delay in completing the obligations of paragraphs 17 or 18. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.
- c. If the parties agree that circumstances beyond the control of Erler Industries caused or may cause a delay in completing the obligations of paragraphs 17 or 18, U.S. EPA shall extend the time for performance of the obligation for a period of such time as U.S. EPA determines is necessary to perform such obligation. This time period will be no longer than the period of delay.
- d. If U.S. EPA does not agree that circumstances beyond the control of Erler Industries caused or are expected to cause a delay in completing the obligations of paragraphs 17 or 18, U.S. EPA will notify Erler Industries in writing of its decision and any delays in completing the obligations of paragraph 17 or 18 will not be excused.


31. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will expire upon the earlier of:

- a. One year from the effective date of this Order, if Erler Industries has complied with all of its terms; or,


- b. The effective date of a modification of the existing Part 70 Operating Permit issued by the Indiana Department of Environmental Management to require the following:
- i. Maintain ninety-five (95) percent destruction of the input VOC for Plant 3;
 - ii. Maintain ninety-five (95) percent destruction of the input VOC for Plant 4; and
 - iii. Maintain ninety-five (95) percent destruction of the input VOC for Plant 5.

SO AGREED

9/22/04
Date


J. Mark Erler, President
Erler Industries, Inc.

9/28/2004
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative Consent Order, EPA-5-04-113(a)IN-08, by Certified Mail, Return Receipt Requested, to:

Mark Erler, President
Erler Industries, Inc.
P.O. Box 219
North Vernon, Indiana 47265

Andy Bowman
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204

I also certify that a copy of the Administrative Consent Order was sent by First Class Mail to:

David McIver, Chief
Air Section
Office of Enforcement
Indiana Department of Environmental Management
100 North Senate, Room 1001
Indianapolis, Indiana 46205-6015

on the 28th day of September 2004.



Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT 7001 0320 0006 0295 3345 Mark Erler

CERTIFIED MAIL RECEIPT 7001 0320 0006 0295 2386 Andy Bowman